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VIA HAND DELIVERY

July 7, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Reference: CC Docket Nos. 96-45 and 97-21
Applicant I.D. No. 145698
Universal Service Code: 2189300013061
Follow-Up Charts to Ex Parte submission in permit-but-disclose proceeding

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceedings are copies of the annotated Charts utilized by the undersigned in a presentation to the Common Carrier Bureau Staff at a meeting on June 22, 1999. An Ex Parte Statement was filed with you on June 23, 1999 with respect to this meeting but the enclosed Charts were unavailable at that time due to difficulties of reduction, reproduction and long distance coordination. Accordingly, an original and one copy of this letter with these Charts is enclosed for filing.

Sincerely,

William K. Coulter

William K. Coulter

WKC:clz

cc Irene Flannery
Sonja Rifken
Lisa Zaina
Kathleen Schroder

Enclosures
Attachment

No. of Copies rec'd 0+1
List A B C D E

Attachment A to Ex Parte Letter of the State of Tennessee, dated June 22 1999.

The following Charts/matters were discussed with the Common Carrier Bureau Staff at a meeting on June 22, 1999. All matters presented in the Charts have been previously addressed in written comments in this proceeding. A separate Ex Parte Letter was filed with the Commission on June 23, 1999 regarding this meeting, however, due to reproduction and coordination delays , the Charts were not included.

*Charts Nos. 1- 5 are diagrams of various types of connections to and among Internet Service Providers ("ISPs") that are used by schools for Internet Access.

Chart No. 1: Chart No 1 is a diagram of a school Local Area Network ("LAN"). The Chart was presented to show the elements of LAN "Internal Connections" ("ICs"). The USF Rules define "internal connections" (i.e. defined in Section 54.506 as components necessary to provide information within a single school campus all the way to individual classrooms) and distinguish them from "Telecommunications" and "Internet Access" for funding eligibility purposes (i.e. Section 54.5). For the State of Tennessee, the LANs and the ICs are synonymous. None of the equipment (including IC/LAN routers) depicted on Chart 1 has been included for USF funding in the State's pending USF Application. This equipment has been separately funded by the State and by Tennessee schools.

Chart No. 2: Chart No. 2 is a diagram of a Local Internet Service Provider ("ISP"). This Chart was presented to show the elements of an "ISP". The dividing line between an ISP ("Internet Access") and a LAN ("Internal Connections") is called the ISP Point of Presence ("POP"). The POP is owned, controlled and operated exclusively by the ISP, and is the point when the ISP accepts different customers for its Internet Access Service. In the case of the State of Tennessee, the POP is depicted by the Ethernet Port on the back of the Cisco 2610 router on Chart 2. A single port is Tennessee's point of access. To the left and right of this port are other ports for access from other customers. The POP router is not dedicated to Tennessee. A yellow wire connects the Tennessee school LAN/ICs to the ISP POP. The single blue wire, which exits from the POP router, represents "telecommunications lines" that are part of the ISP service for all customers. The POP router functions solely to direct Internet traffic [i.e. Internet Access is defined by Section 54.5 as including address translation, protocol conversion, data transmission, introductory information content, etc.] for the ISP. While in some cases it may, in the case of Tennessee, it does not function with respect to the LAN. If the yellow wire is unplugged, the LAN operates independently and there is no connection to the Internet via the ISP, nor is there any interruption in communications between and among classrooms.

As the Chart depicts, Internet Access, from every Internet Service Provider, requires a router point of presence (POP) to initiate service. If a customer has dial-up access, then it dials into the Internet Service Provider POP router at the ISP premises to initiate service. If a customer has "dedicated telecommunications line" access, service is initiated from a customer-dedicated router on the customer's premise. However, if a customer has "co-

location" with an ISP POP, then service again can be initiated using the shared ISP POP router, similar to dial-up. These are the basic options for Internet Access for every Internet Service Provider. Every ISP has routers as part of its Internet service, just as it has transmission lines as part of its service. Section 54.5 defines the function of every router no matter where it is located in the ISP's service, i.e. at a customer premise or embedded at collection points, that include network facilities and transmission lines. Chart 2 shows that routers are distinguished and can be classified only by "the purpose or function" of the equipment, and not by its location.

In Tennessee's Application, the unique situation is that the Internet Service Provider's point of presence is co-located at the school's premise. Thus, the State has no dedicated line, router or equipment. This point of presence is the initiation of the State's school Internet Access Service.

Chart 3: Chart 3 is a diagram of a Regional ISP. This Chart was presented to show the similarity of equipment and facilities, including routers and servers. This Chart also was presented to show that, in the case of Tennessee, the Local ISP is also a Regional and National ISP (i.e. it connects to both Tier 1 and Tier 2 ISPs). This Chart also was included to show that every Regional and National ISP has numerous POP routers, and that these routers are augmented (i.e. constructed) as customers increase. Without these routers, there is no functionality called "Internet", as implemented world-wide, nor is there any "Internet Access" as defined by the USF Rules.

Chart 4: Chart 4 is a diagram of a National ISP. This Chart was presented to complete the route for all Internet Access Services. Approximately 10,000 local, regional and national ISPs compose the Internet, according to the Boardwatch Dictionary of Internet Service Providers (boardwatch.internet.com).

Chart 5: Chart No. 5 is a diagram of a Wide Area Network ("WAN"). The unique characteristics of a WAN, as defined by Section 54.518 and Paragraph 193 of the USF Rules, are that it carries a school's telecommunications (i.e. "voice and data"), and that it "inter-connects" a school's LANs and/or other WANS together. It was presented to show that the Tennessee's ISP is not a WAN, and does not have the functional capability of a WAN. Instead, the Tennessee ISP collects Internet requests and responds to Internet requests, exclusively.

* Charts Nos. 6-8 are diagrams of the event schedules and factual situations presented in Tennessee's written comments.

Chart No. 6.: Chart No 6 is a map of the State of Tennessee, with four BellSouth local-calling areas colored in green. These areas were the only areas where BellSouth.Net provided Internet Access without toll charges as of the date of the State's Application.. This Chart was presented to show that, with minor exceptions, Tennessee did not have Internet Access outside of these four (4) areas at the time of the contract award except by pay-call dial-up. Dial-up access, therefore, was not cost effective for the schools, rather dedicated Internet Access was required for cost effective service. With this low

penetration, Internet Access could not be obtained without lines being extended (i.e. constructed) by an ISP, as was amply demonstrated by all of the response to the State's Request For Proposal. All ISP's extend and upgrade their facilities, including routers, on an incremental basis as needed to respond to customer requirements and an expanding customer base. This is true of National ISPs, Regional ISPs and Local ISPs as a customary practice in the industry throughout the world. Tennessee Procurement Rules, and the USF Rules, do not permit the elimination of bidders due to their possible "new" construction build-outs. Schools are required to accept the most cost-effective service, regardless of build-out or new construction. Thus, new ISP construction can not be a determination of eligibility without causing the most-cost effective service to be ineligible.

Chart No. 7: Chart 7 is a timeline of the Procurement Process by which the State of Tennessee arrived at a selection of a contract for Internet Access Service. The initial RFP was posted for competitive bidding, as required by the USF Rules. It is presented to show that the State implemented its Procurement Process to arrive at the "most cost effective" service. An important aspect of this Chart shows that the process is only complete at the point of signing the contract. Many of the issues brought before the FCC by the losing bidder were issues early in the process but not at the conclusion. For example, the cost of service was discovered to be quite different during the review process rather than at the intent-to-award date (middle of chart). Also, the Chart shows that the review addressed every factual issue and was flexible enough to address every issue presented .

With this Chart, the parties discussed Section 5.1.6 of the State's RFP, which RFP instituted a separate consideration by the State of cost and technical proposals, and provided for costs to be evaluated only after technical proposals had been evaluated.

Chart No. 8: Chart No. 8 is a functional diagram of the Eligibility Criteria for determining "equipment" eligibility under the USF Rules. It was presented to show that equipment, such as Routers, are integral to any Internet Service, to any IC and to any WAN. Thus, equipment identity and/or location can not be determinative of eligibility. Rather, eligibility for USF funding is dependent on a combination of equipment Function (i.e. is it part of an eligible service?), its Provider (i.e. is its owner eligible?), and its Use (i.e. is it used solely for Internet or not?). In the case of Tennessee, the ISP POP router would be eligible. Chart No. 8 also was presented to show that there are three basic methods to access the Internet:

a) the location of the POP directly adjacent to the school , with no dedicated equipment cost;

b) through a dedicated Private Line (or WAN) to the school, with the cost of the dedicated line and associated dedicated router; and

c) through a "dial up" connection, using a phone line and toll charge.

In the case of TN, no dedicated facilities, nor "dial-up" are included. Thus, there was no new construction exclusively for the schools.

Chart No. 8: Chart No. 8 was presented to show that, when the use of existing Internet facilities and services will not qualify under the FCC Rules for USF eligibility (because they are not the "most efficient and effective") then there is no other alternative but "new" services and/or facilities. It was also presented to show that new construction need not result in increased USF "single-year" costs. In the case of Tennessee, total TN ISP costs (Benchmark #1) were compared to; a) total National ISP costs (Benchmark #2), b) total Regional ISP costs (Benchmark #3), and c) total T-1 costs needed to reach either a Regional or National ISP (Benchmark #4). The result was that the selected Service not only was cheaper than any other alternative but also that its "single year" costs were less. Since Services using existing facilities, rather than ISP extensions, were not eligible due to higher costs, and since no increase in USF funding in a "single year" over existing service costs was involved, the "Benchmark" shows that construction/build-out/extensions should be irrelevant to eligibility.

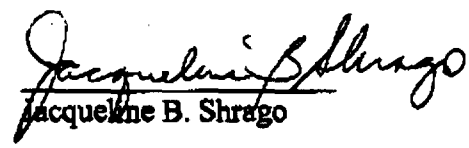
This Chart also was presented to demonstrate that "one-time", "non-recurring" charges are not dispositive of whether "facilities" or "services" are being provided, or whether "new construction" is involved in a existing Service. Since Tennessee's payment method (i.e. the allocation of its ISP payments between one-time and recurring) was designed to take advantage of opportunities for reduced ISP carrying charges and to implement State Law requiring that services can not be paid for until received, TN's structured costing must be considered a "payment method only". It should be noted that Tennessee's structured "one-time" payments amount to $8.5 M for the period requested in the Application.,

* In addition to the above Charts, the parties discussed the Transition from ConnecTen to an ISP service, noting that, if the State had not sold ConnecTen software, the USF and State costs would have increased, not decreased, because of the need for new software, which software would have been eligible. It also was noted that the value of ConnecTen software was de minimis, amounting to less than 10% of the ISP's initial cost.

Finally, the parties discussed the State evaluation formula, the State noting that all critical examples prepared by the losing bidder are irrelevant, since they rely totally on hypothetical events and figures which never occurred. This is readily acknowledged by this bidder. Further, if they had occurred, then they would have been addressed and disposed of under the State's Procurement Rules. The State also considered it improper to consider purely theoretical examples, without theoretical responses. Regardless, and as demonstrated in the State's Response, when all variables other than cost are held constant, the State formula always produces the most cost effective service when "pre-discount price" is factored into it, as required by the Rule. It is not the Formula that is at issue but the result achieved, and the correct result was achieved and this is indisputable based on the facts.

AFFIDAVIT

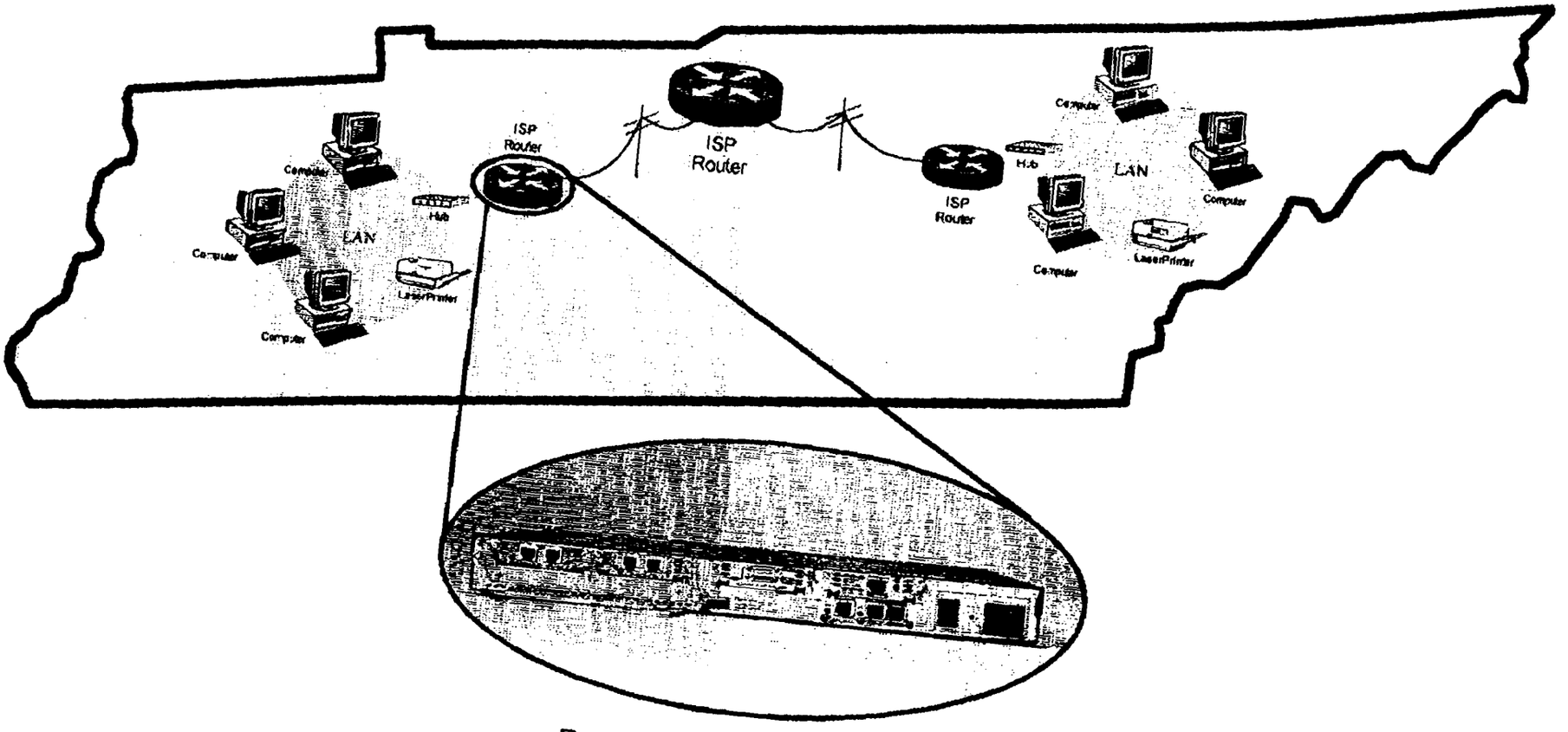
I, JACQUELINE B. SHRAGO, the undersigned, do hereby declare under penalty of perjury that the facts contained in the foregoing "Attachment A to Ex Parte Letter" of the State of Tennessee are true and correct to the best of my knowledge, information and belief informed after reasonable inquiry.



Jacqueline B. Shrago

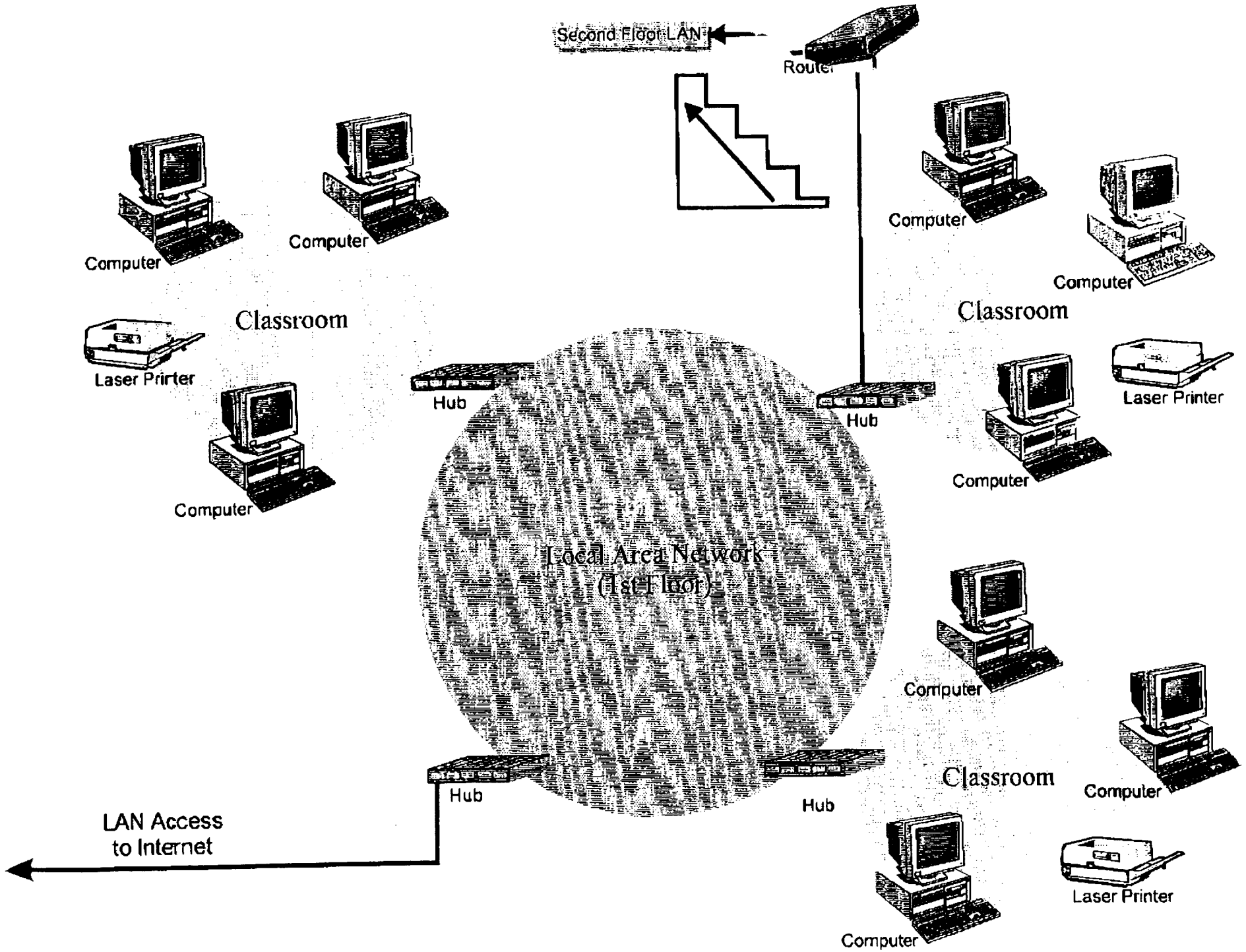
Executed on this 7th day of July, 1999.

Local ISP – 2

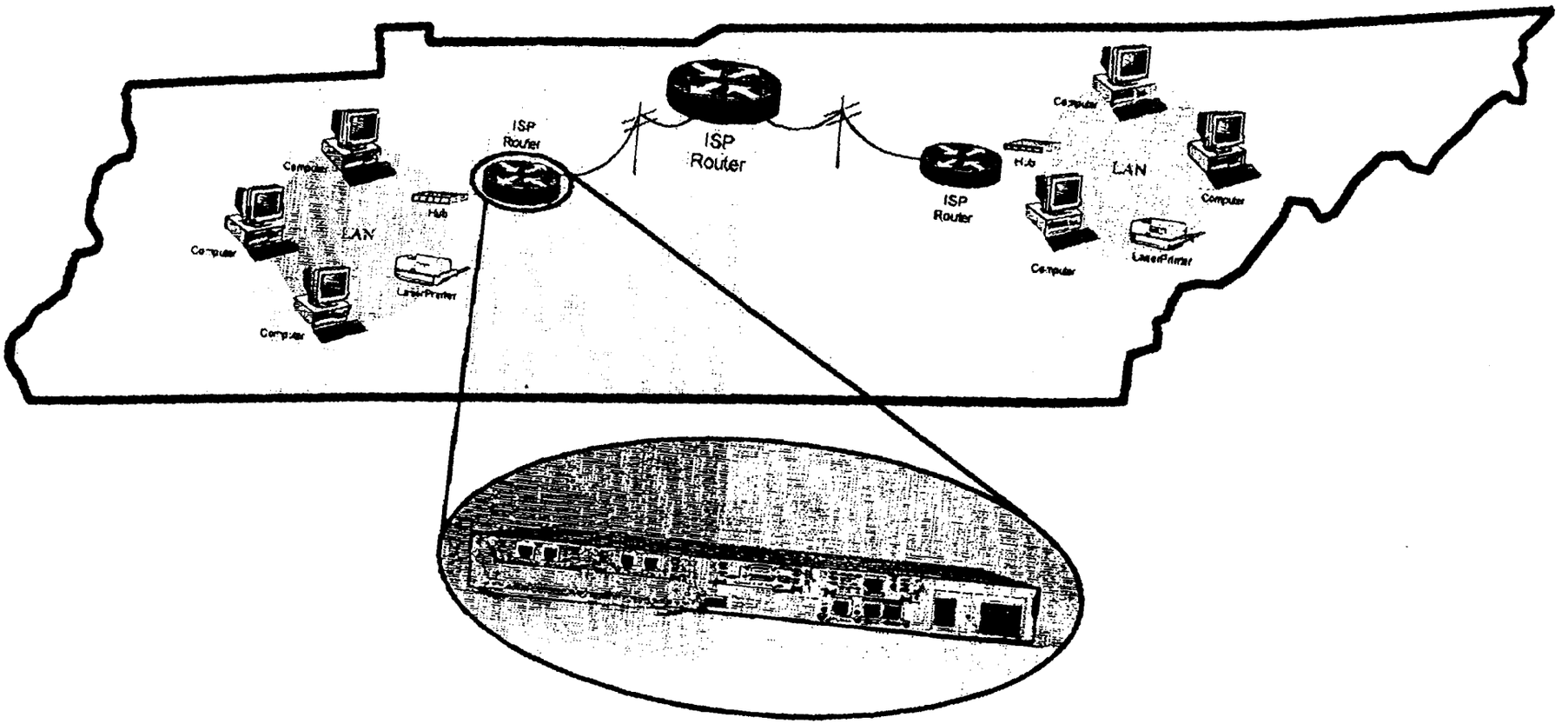


Rear panel of Cisco 2610 router

LAN - 1

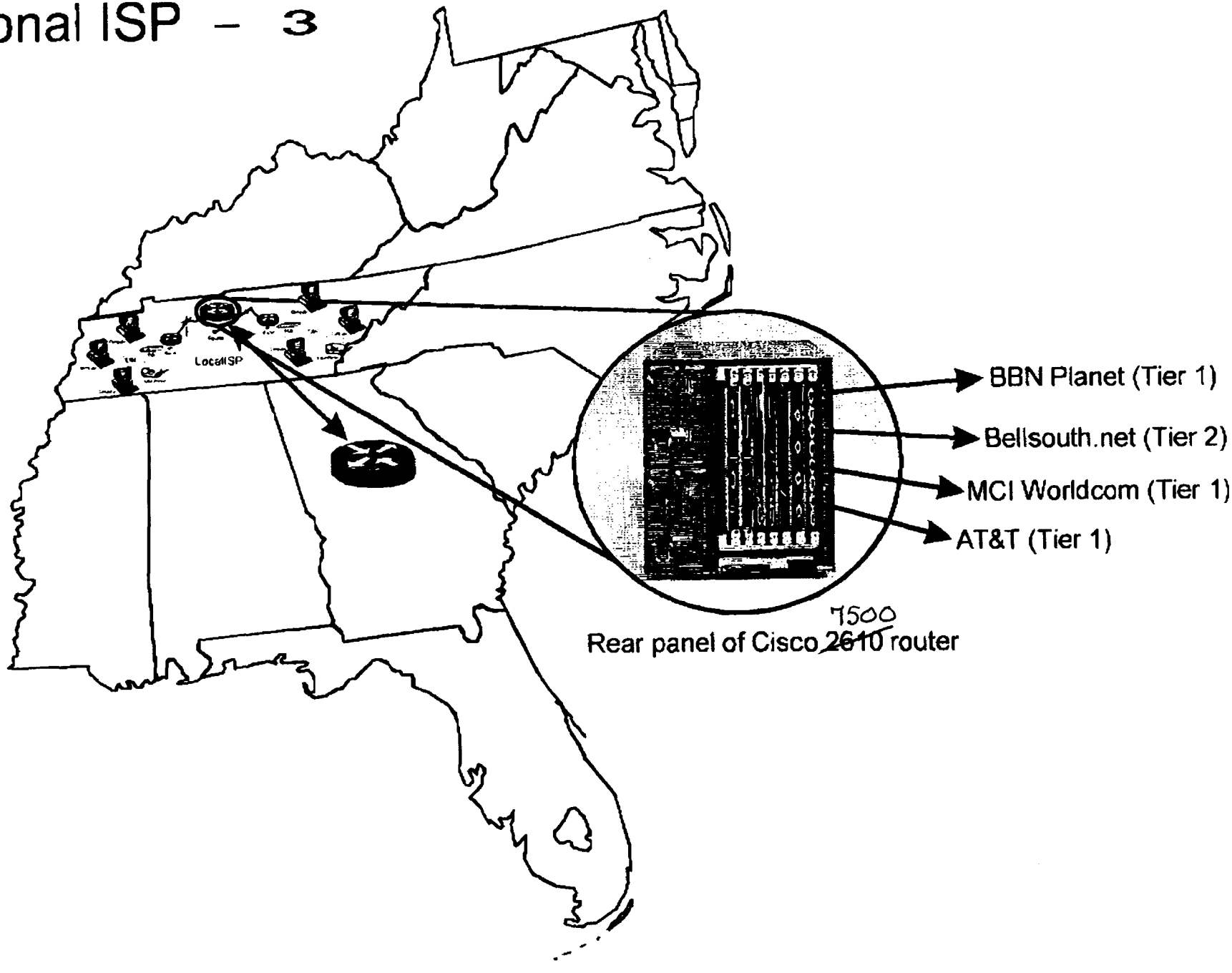

Second Floor LAN
Router
Computer
Computer
Computer
Computer
Classroom
Laser Prirter
Computer
Hub
Hub
Computer
Laser Printer
Classroom
Local Area Network
(1st Floor)
Computer
Computer
Hub
Hub
Classroom
LAN Access
to Internet
Computer
Laser Printer

Local ISP – 2

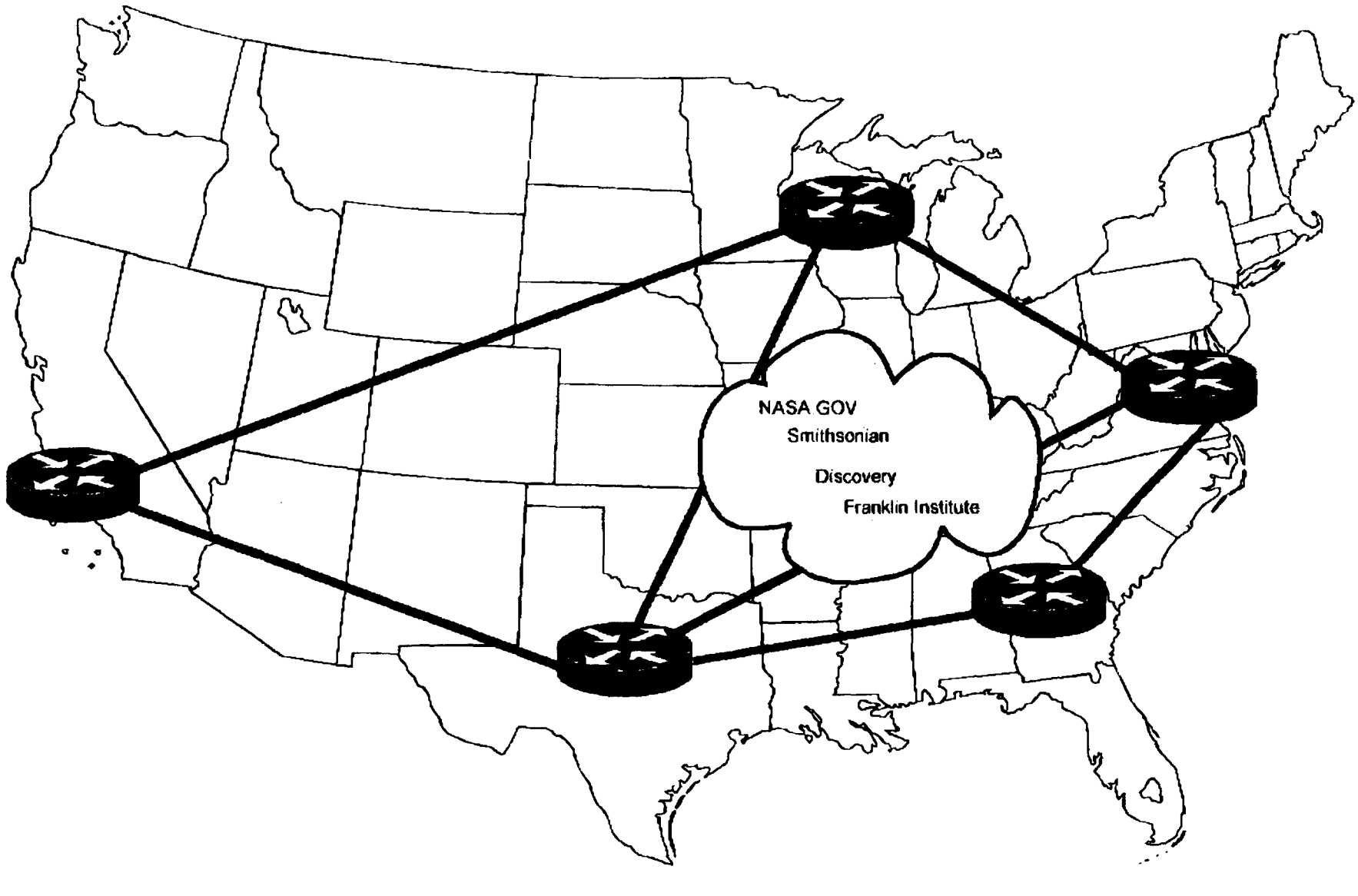


Rear panel of Cisco 2610 router

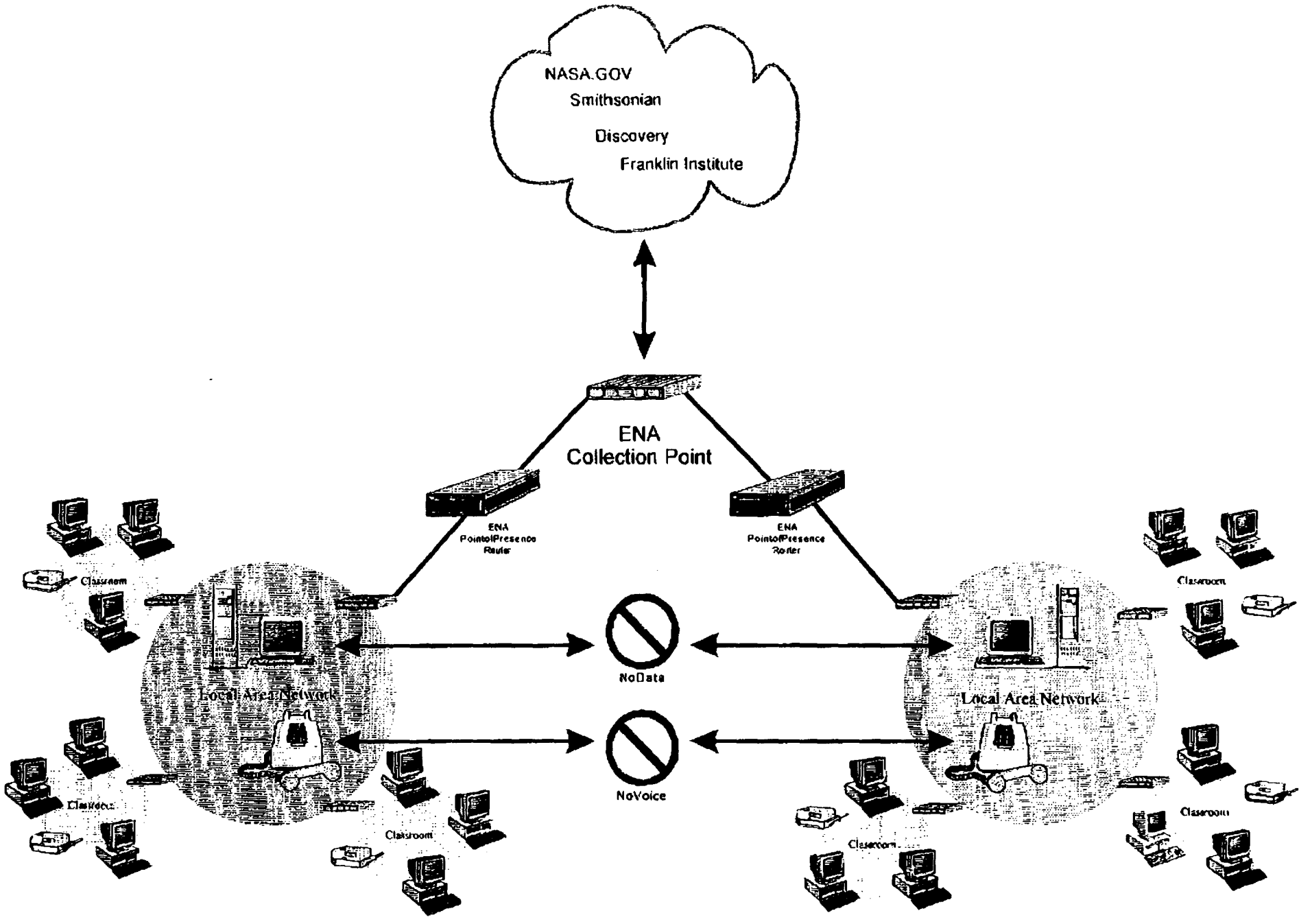
Regional ISP – 3



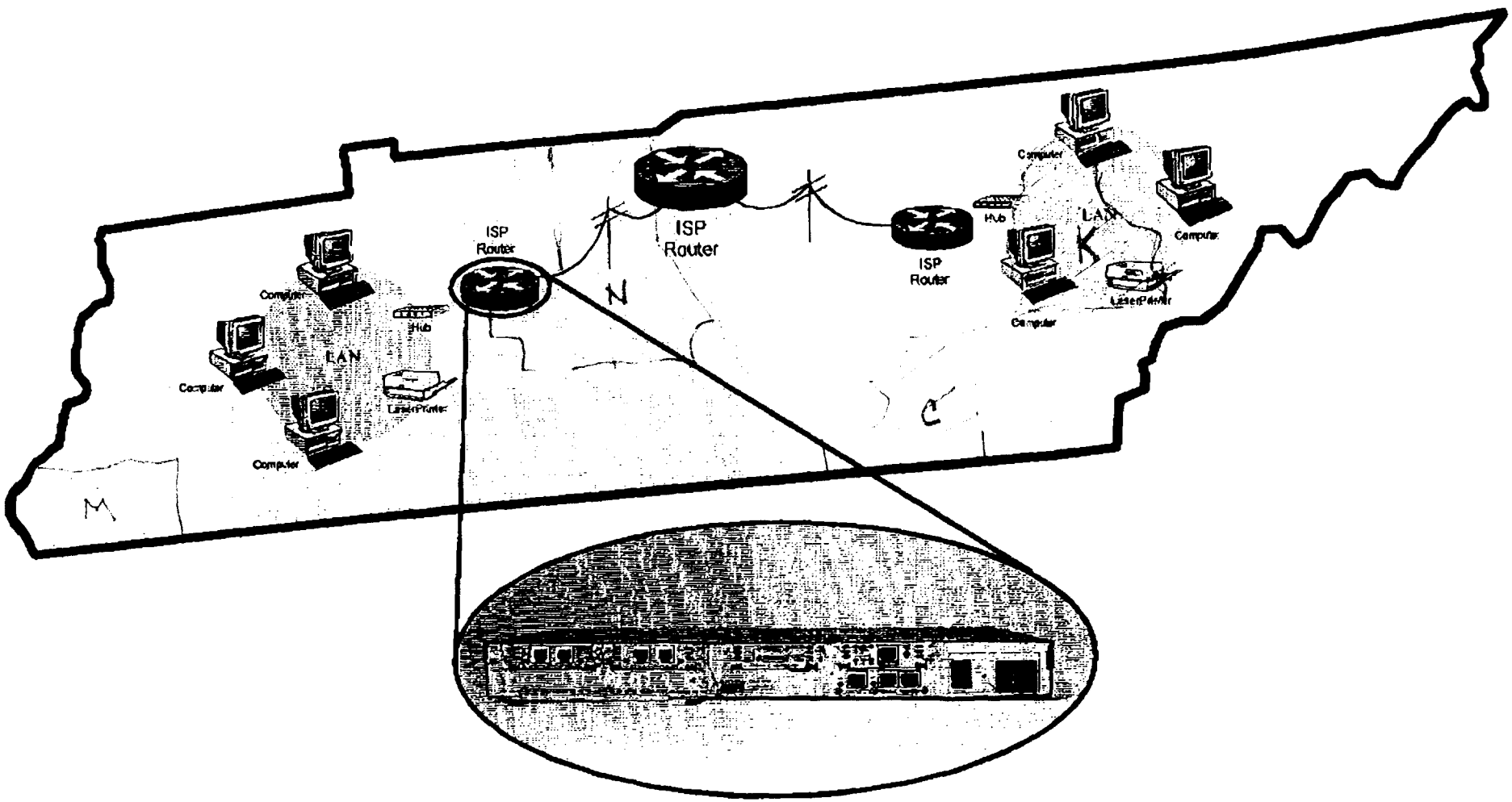
National ISP - 4



WAN - 5

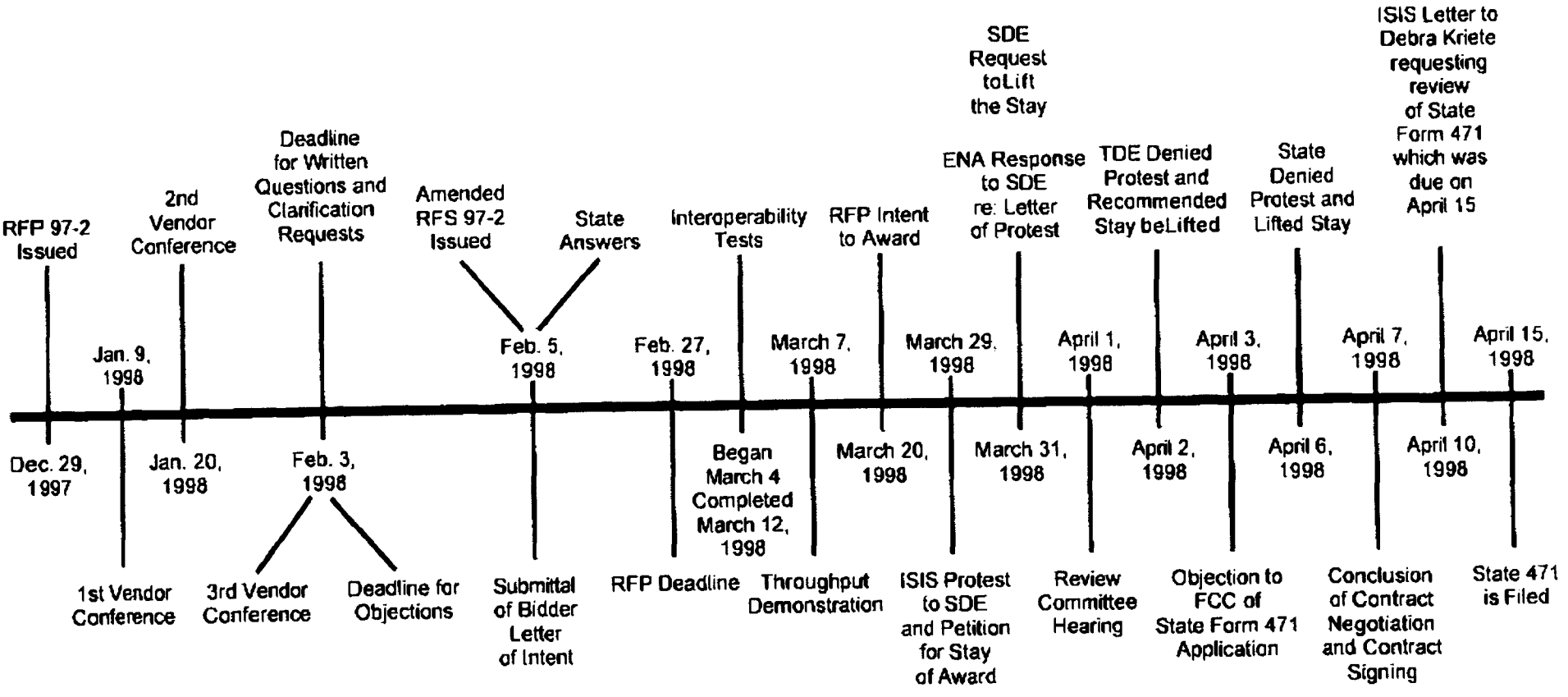

NASA.GOV
Smithsonian
Discovery
Franklin Institute
ENA
Collection Point
ENA
PointofPresence
Router
ENA
PointofPresence
Router
Classroom
Local Area Network
NoData
NoVoice
Local Area Network
Classroom
Classroom
Classroom
Classroom

TENNESSEE - 6

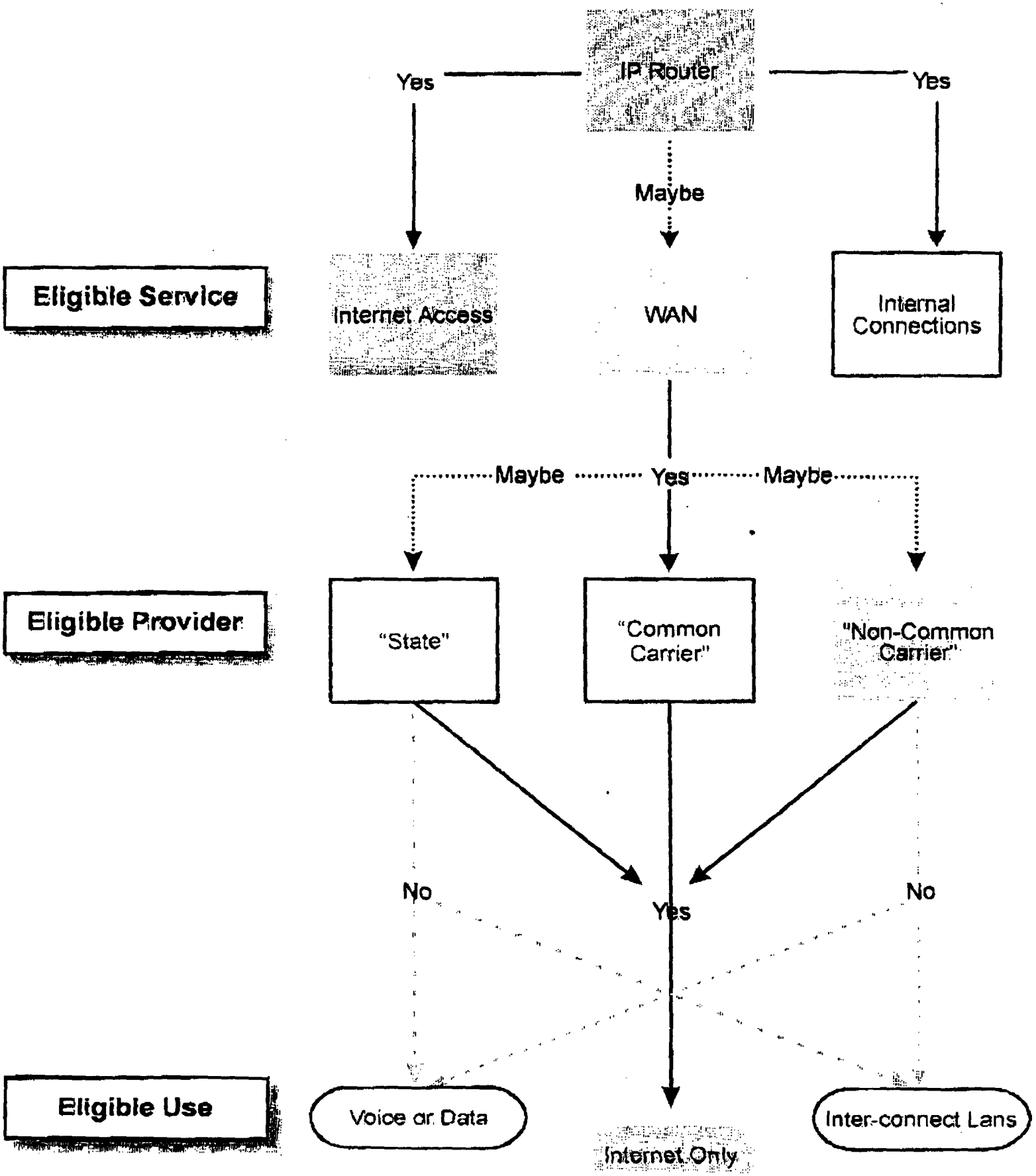


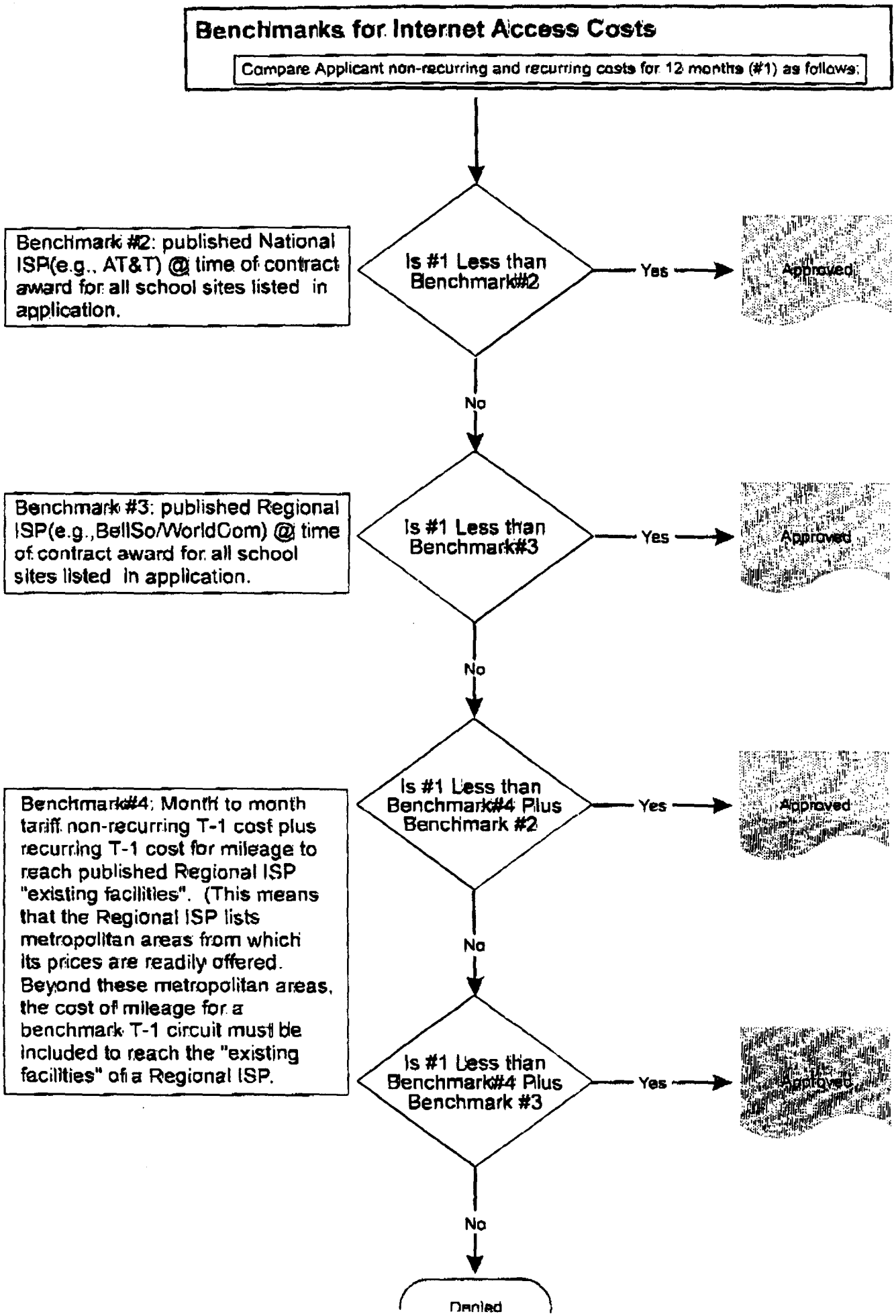
Rear panel of Cisco 2610 router

STATE PROCESS - 7



Equipment Eligibility Matrix




Benchmarks for Internet Access Costs
Compare Applicant non-recurring and recurring costs for 12 months (#1) as follows:
Benchmark #2: published National ISP(e.g., AT&T) @ time of contract award for all school sites listed in application.
Is #1 Less than Benchmark#2
Yes
Approved
No
Benchmark #3: published Regional ISP(e.g.,BellSo/WorldCom) @ time of contract award for all school sites listed in application.
Is #1 Less than Benchmark#3
Yes
Approved
No
Benchmark#4: Month to month tariff non-recurring T-1 cost plus recurring T-1 cost for mileage to reach published Regional ISP "existing facilities". (This means that the Regional ISP lists metropolitan areas from which its prices are readily offered. Beyond these metropolitan areas, the cost of mileage for a benchmark T-1 circuit must be included to reach the "existing facilities" of a Regional ISP.
Is #1 Less than Benchmark#4 Plus Benchmark #2
Yes
Approved
No
Is #1 Less than Benchmark#4 Plus Benchmark #3
Yes
Approved
No
Denied